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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 THANH Q. DAM, et al.,
11 Plaintiff(s),
12 v.
13 WILLIAM BARR, et al.,
14 Defendant(s).

Case No.: 2:19-cv-01701-GMN-NJK

ORDER

(Docket No. 21)

15 Pending before the Court is Defendants' motion to file administrative record under seal.
16 Docket No. 21. Defendants submit:

- 17 • that the more than 3000-page "administrative record in this case is taken from both
18 the report of proceedings and the 'A-file'" and contains both "protected health care
19 information" and "personal ident[ity] information;"
- 20 • that "redaction of the sensitive information is not practicable without considerable
21 difficulty and risk of obscuring the meaning of some of [the] documents;" and
- 22 • that Defendants' counsel "has discussed this motion with counsel for Plaintiff[s],
23 who did not have an objection to filing the administrative record under seal."

24 *Id.* at 2; *see also* Docket No. 21-1 at 2.

25 There is a strong presumption of public access to judicial records. *See Kamakana v. City*
26 *& County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006). A party seeking to file documents
27 under seal must overcome that presumption. *Pintos v. Pac. Creditors Ass'n*, 605 F.3d 665, 678
28 (9th Cir. 2010). The standard for a motion to seal turns on whether the sealed materials relate to a

1 dispositive or non-dispositive motion. *See Ctr. for Auto Safety v. Chrysler Group, LLC*, 809 F.3d
2 1092, 1097–99 (9th Cir. 2016). The administrative record at issue will form the basis of the parties’
3 motions for summary judgment. *See* Docket No. 18 at 4. Therefore, the Court finds that the
4 administrative record Defendants seek to seal relates to a dispositive motion.

5 To overcome the strong presumption of public access to judicial records when seeking to
6 seal a judicial record related to a dispositive motion, a party must “articulate compelling reasons
7 supported by specific factual findings that outweigh the general history of access and the public
8 policies favoring disclosure, such as the public interest in understanding the judicial process” and
9 “significant public events.” *Kamakana*, 447 F.3d at 1178–79 (internal citations, quotation marks,
10 and alterations omitted). “In general, ‘compelling reasons’ sufficient to outweigh the public’s
11 interest in disclosure and justify sealing court records exist when such ‘court files might [] become
12 a vehicle for improper purposes,’ such as the use of records to gratify private spite, promote public
13 scandal, circulate libelous statements, or release trade secrets.” *Id.* at 1179 (citation omitted). “The
14 mere fact that the production of records may lead to a litigant’s embarrassment, incrimination, or
15 exposure to further litigation will not, without more, compel the court to seal its records.” *Id.* A
16 court must “balance the competing interests of the public and the party who seeks to keep certain
17 judicial records secret. After considering these interests, if the court decides to seal certain judicial
18 records, it must base its decision on a compelling reason and articulate the factual basis for its
19 ruling, without relying on hypothesis or conjecture.” *Id.* at 1179.

20 The Court finds that the “compelling reasons” standard is met here. Public disclosure of
21 protected health care information and personal identity information—including “passports, driver
22 licenses, tax information, identification cards, and other documents containing sensitive personal
23 ident[ity] information”—would put Plaintiffs at risk of that information being used for improper
24 purposes and identity-theft related harms. The Court also finds that redaction is impracticable
25 based on Defendants’ representation and its own review of the index to the administrative record.

26 Accordingly, the Court **GRANTS** Defendants’ motion to file administrative record under
27 seal. Docket No. 21. However, Defendants do not request, or attempt to justify, sealing their
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1 motion at Docket No. 21. The Court thus **INSTRUCTS** the Clerk of the Court to unseal Docket
2 No. 21 in its entirety.

3 IT IS SO ORDERED.

4 Dated: July 14, 2020

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Nancy J. Koppe
United States Magistrate Judge
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